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8 June 2010

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, D.C. 20024

ENTERED
Office of Proceedings

JUN 9 - 2010

Part of
Public Record

Re: East Tennessee Railway - Exempt
Abandonment - in Washington and Carter
Counties, TN, AB-1031X

Request for Extension of NITU period -- fee exempt

Action requested prior to July 4, 2010

Dear Ms. Brown:

Enclosed for filing on behalf of City of Johnson City, Tennessee, please find the original and ten copies of a Motion for Extension of the NITU negotiation period in the above captioned proceeding. The existing negotiation period expires July 4, 2010. In order to avoid jurisdictional issues, City requests that the Board act on this request prior to that date.

49 C.F.R. 1002.2(f) provides for waiver of filing fees for an application which is filed by a local government entity. City of Johnson City is a local government entity. City of Johnson City thus qualifies for, requests, and claims exemption from, or waiver of, all filing fees that might otherwise be associated with the filing of this extension request.

By my signature below, I certify service of this letter and the associated motion by U.S. Mail, postage pre-paid, first class on this date on Mr. Hocky, counsel for East Tennessee Railway, at his address of record (courtesy copy by email provided to him on this date).

Thank you for your assistance in this matter.

Respectfully submitted,



Charles H. Montange

Encls.

cc. Eric Hocky (for ETR) (w/encl.)

FILING FEE WAIVED

Before the Surface Transportation Board

East Tennessee Railway, L.P.)
- Exempt Abandonment -) STB Dkt. No.
in Washington and Carter) AB-1031X
Counties, TN)



Motion for Extension of Notice of Interim Trail, Use Negotiation Period

City of Johnson City ("City") moves for a 180 day extension in the negotiation period provided under the Notice of Interim Trail Use (NITU) served January 5, 2010, in this proceeding. The NITU negotiation period currently expires on July 4, 2010. The NITU if extended as requested would expire on December 31, 2010. City is authorized to state that East Tennessee Railway ("ETRR"), per its counsel Mr. Hocky, consents to this extension.

Grounds for Extension

The parties have negotiated a railbanking agreement in good faith, and believe that they are on the verge of agreeing to a final term sheet on which a contract can be based, and pursuant to which a closing will ultimately occur. However, it now appears unlikely that these tasks can be accomplished before expiration (July 4) of the existing NITU, because a contract, even if completed, must be presented for corporate and city council approvals, and the opportunities to do so prior to July 4 are now very limited.

This is the first request for a NITU extension in this proceeding.

It is well established that a NITU extension is appropriate

in such circumstances:

"An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the national Trails System Act, 16 U.S.C., 1247(d) (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-no. 13B) (ICC served Feb. 5, 1990)."

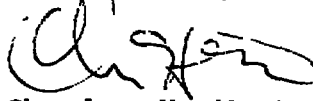
E.g., Wisconsin Central Ltd. - Abandonment Exemption - in Brown County, WI, AB 303 (Sub-no. 20X), served Oct. 10, 2006;

Consolidated Rail Corporation - Abandonment Exemption - in St. Joseph County, IN, AB 167 (Sub-no. 1165X), served Feb. 19, 1998.

Conclusion

For the reasons stated, the NITU negotiation period should be extended for 180 days, until December 31, 2010.

Respectfully submitted,



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